IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 985 of 2002

with

CIVIL REVISION APPLICATION No 998 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

FOOD CORPORATION OF INDIA THRO' MANAGING DIRECTOR

Versus

KUTCH SHIPPING AGENCY PVT.LTD.

Appearance:

1. Civil Revision Application No. 985 of 2002
   MR NK PAHWA for M/S THAKKAR ASSOC. for Petitioner No. 1
   MR NV ANJARIA for Respondent No. 1
2. Civil Revision Application No. 998 of 2002
   MR NK PAHWA for M/S THAKKAR ASSOC. for Petitioner No. 1
   MR NV ANJARIA for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 22/10/2002

COMMON ORAL JUDGEMENT

Heard learned Advocates Mr.Pahwa appearing for the petitioner and Mr.N.V.Anjaria appearing for the respondent in both these Civil Revision Applications.

2. Civil Revision Application No.985 of 2002 is filed against the order passed by the learned Civil Judge (Senior Division), Gandhidham, Kachchh, on 23.8.2002 below Application Exh.342 in Special Civil Suit No. 110 of 1995 whereby the learned Judge has rejected the application filed by the original defendant and the Court has inter alia directed the defendant to give copies of certain documents to the plaintiff within four days from the date of the order, failing which the defence may be struck off.

3. So far as Civil Revision Application No. 998 of 2002 is concerned, the same is filed against the order passed by the learned Civil Judge (Senior Division), Gandhidham, Kachchh, on 20.7.2002 below Application Exh.302 in Special Civil Suit No. 110 of 1995. The learned Judge directed the defendant to give copies of the documents produced by the defendant vide Application Exh.298.

4. It is the say of the petitioner that earlier, the learned Judge has passed an order on 20.7.2002 whereby the documents produced by the defendant along with the list at Sr.Nos.1 to 3-A to 3-F and 3-G being privileged documents, the custody thereof was given to the Nazar of the Court. Thereafter, an application was moved by the plaintiff in the Suit at Exh.298 and the Court passed an order to give the copies of the documents to the defendant. The said order passed by the Court was contrary to the directions given by this Court earlier in Civil Revision Application No. 1869 of 1996 and this Court specifically directed that after producing the documents, the Court will examine the relevancy of the same before taking them into account and thereafter the Court will pass appropriate order and the directions given by the interim order while admitting the revision application may also be taken into consideration. It was further observed that it will be open for both the sides to point out to the learned trial Judge whether these documents have got any relevancy or not.

5. It appears from the order of the learned trial Judge that the documents were produced in sealed cover

and the learned Judge has not seen the said documents. However, as per the submissions made by Mr.Anjaria, learned Advocate appearing on behalf of the respondent, while preparing the list, it appears that the documents were in the nature of correspondence to the third party. The documents were not considered as privileged documents and possibly on the basis of the said list, the learned Judge has passed the order to give copies of the documents to the plaintiff. Whatever may be the case, the fact still remains that the learned Judge has not seen the documents while passing the impugned order and thereby the directions given by this Court earlier were not complied with.

6. In this view of the matter, the impugned orders are quashed and set aside and the learned trial Judge is directed to open the sealed cover and see the documents as well as examine the relevancy of the same and shall come to an appropriate conclusion as to whether copies thereof are required to be given to the plaintiff or not. While deciding the said aspect, the learned Judge is further directed to pass a speaking order in the matter after hearing the parties. Since the suit is of 1995, the learned trial Judge is directed to take a decision within one month from the date of receipt of the writ of this Court.

7. With the above observations and directions, both these Civil Revision Applications are disposed of. Rule is made absolute to the above extent. There shall be no order as to costs.

(K.A. Puj, J.)

Sreeram.